

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

MARIA J.,<sup>1</sup>

Plaintiff,

v.

KILOLO KIJAZAKI, Acting  
Commissioner of Social Security,

Defendant.

Case No. 8:22-cv-02062-MAA

**MEMORANDUM DECISION AND  
ORDER REVERSING DECISION OF  
THE COMMISSIONER AND  
REMANDING FOR FURTHER  
ADMINISTRATIVE PROCEEDINGS**

**I. INTRODUCTION**

On November 10, 2022, Plaintiff Maria J. (“Plaintiff”) filed a Complaint seeking review of Defendant Commissioner of Social Security’s (“Commissioner” or “Defendant”) final decision denying her applications for disability insurance benefits under Title II of the Social Security Act and supplemental security income under Title XVI of the Social Security Act. (ECF No. 1.) Pursuant to 28 U.S.C. § 636(c), the parties consented to the jurisdiction of a United States Magistrate

---

<sup>1</sup> Plaintiff’s name is partially redacted in accordance with Federal Rule of Civil Procedure 5.2(c)(2)(B) and the recommendation of the Committee on Court Administration and Case Management of the Judicial Conference of the United States.

1 Judge. (ECF Nos. 10, 13.) On April 17, 2023, Defendant filed an Answer (ECF  
 2 No. 15) and Certified Administrative Record (“AR,” ECF No. 16). On May 22,  
 3 2023, Plaintiff filed a brief (ECF No. 17), which appears to have been incorporated  
 4 into the parties’ joint Motion for Order filed August 16, 2023 (ECF No. 22). This  
 5 matter is fully briefed and ready for decision. The Court deems the matter  
 6 appropriate for resolution without oral argument. *See* Fed. R. Civ. P. 78(b); C.D.  
 7 Cal. L.R. 7-15. For the reasons discussed below, the Court reverses the decision of  
 8 the Commissioner and remands the matter for further administrative proceedings.  
 9

## 10 **II. SUMMARY OF ADMINISTRATIVE PROCEEDINGS**

11 Plaintiff filed a Title II application for disability insurance benefits on March  
 12 2, 2020, and a Title XVI application for supplemental security income benefits on  
 13 March 12, 2020. (AR 16.) In both applications, Plaintiff alleged disability  
 14 beginning January 1, 2010. (*Id.*) The Commissioner denied the applications on  
 15 December 11, 2020 (AR 141–50), and again upon reconsideration on April 6, 2021  
 16 (AR 153–64). On April 13, 2021, Plaintiff requested a hearing before an  
 17 Administrative Law Judge (“ALJ”). (AR 165.) At a telephonic hearing on  
 18 November 4, 2021, the ALJ heard testimony from Plaintiff—who was represented  
 19 by counsel at the hearing—and a vocational expert. (AR 35–59.) At the hearing,  
 20 Plaintiff withdrew her Title II application and amended her alleged onset date for  
 21 her Title XVI application to the application date (March 12, 2020). (AR 16, 39.)

22 In a decision dated November 24, 2021, the ALJ denied Plaintiff’s application  
 23 after making the following findings under the Commissioner’s five-step evaluation.  
 24 (AR 13–34.) At step one, the ALJ found that Plaintiff has not engaged in substantial  
 25 gainful activity since January 1, 2010. (AR 18, ¶ 1.) At step two, the ALJ found  
 26 that Plaintiff has the following severe impairments: lupus, polyarthralgias, chronic  
 27 fatigue syndrome, obesity, posttraumatic stress disorder (PTSD), major depressive  
 28 disorder, and generalized anxiety disorder. (*Id.* ¶ 2.) At step three, the ALJ found

1 that Plaintiff does not have an impairment or combination of impairments that meets  
2 or medically equals the severity of one of the agency's listed impairments. (AR 19,  
3 ¶ 3.) Next, the ALJ found that Plaintiff has the following Residual Functional  
4 Capacity ("RFC"):

5 Plaintiff has the residual functional capacity to perform  
6 light work as defined in 20 CFR 404.1567(b) and  
7 416.967(b) except: can lift and/or carry 20 pounds  
8 occasionally, 10 pounds frequently; can stand or walk for  
9 six hours out of an eight-hour workday; can sit for six  
10 hours out of an eight-hour workday; can occasionally  
11 push and pull with the bilateral upper extremities and  
12 bilateral lower extremities; can occasionally climb  
13 ladders, ropes and scaffolds; can frequently climb ramps  
14 and stairs; can frequently balance; can occasionally  
15 stoop, kneel, crouch and crawl; can frequently reach in  
16 all directions with both upper extremities; can frequently  
perform handling and fingering bilaterally; must avoid  
concentrated exposure to extreme cold and hazards; is  
limited to work involving simple, repetitive tasks; and is  
limited work involving no more than occasional contact  
with coworkers, supervisors and the public.

17 (AR 21, ¶ 4.) At step four, the ALJ found that Plaintiff is unable to perform any  
18 past relevant work. (AR 27, ¶ 5.) The ALJ classified Plaintiff as a younger  
19 individual on the alleged disability onset date. (AR 28, ¶ 6.) The ALJ categorized  
20 Plaintiff as having at least a high school education. (*Id.* ¶ 7.) The ALJ concluded  
21 that "[t]ransferability of job skills is not material to the determination of disability  
22 because using the Medical-Vocational Rules as a framework supports a finding that  
23 the claimant is 'not disabled,' whether or not [Plaintiff] has transferable job skills."  
24 (*Id.* ¶ 8.) At step five, the ALJ noted that the vocational expert testified that an  
25 individual of Plaintiff's age, education, work experience, and residual functional  
26 capacity could perform light and unskilled occupations such as: production  
27 assembler, with 190,000 jobs; and garment folder, with 75,000 jobs. (AR 29, ¶ 9.)  
28 The ALJ concluded that, "[c]onsidering [Plaintiff's] age, education, work

1 experience, and residual functional capacity, there are jobs that exist in significant  
 2 numbers in the national economy that [Plaintiff] can perform[.]” (AR 28, ¶ 9.)  
 3 Accordingly, the ALJ concluded that Plaintiff was not disabled, as defined by the  
 4 Social Security Act, from January 1, 2010. (AR 29, ¶ 10.)

5 On September 13, 2022, the Appeals Council denied Plaintiff’s request for  
 6 review. (AR 1–7.) Plaintiff now seeks judicial review of the ALJ’s decision, which  
 7 stands as the final decision of the Commissioner. *See* 42 U.S.C. § 405(g).

8

### 9 III. STANDARD OF REVIEW

10 Pursuant to 42 U.S.C. § 405(g), the Court reviews the Commissioner’s final  
 11 decision to determine whether the Commissioner’s “decision to deny benefits . . . ‘is  
 12 not supported by substantial evidence or is based on legal error.’” *Treichler v.*  
 13 *Comm’r of SSA*, 775 F.3d 1090, 1098 (9th Cir. 2014) (quoting *Andrews v. Shalala*,  
 14 53 F.3d 1035, 1039 (9th Cir. 1995)). “‘Substantial evidence’ means more than a  
 15 mere scintilla, but less than a preponderance; it is such relevant evidence as a  
 16 reasonable person might accept as adequate to support a conclusion.” *Lingenfelter v.*  
 17 *Astrue*, 504 F.3d 1028, 1035 (9th Cir. 2007) (quoting *Robbins v. SSA*, 466 F.3d 880,  
 18 882 (9th Cir. 2006)); *see also Richardson v. Perales*, 402 U.S. 389, 401 (1971). The  
 19 Court “must consider the record as a whole, weighing both the evidence that  
 20 supports and the evidence that detracts from the Commissioner’s conclusion, and  
 21 may not affirm simply by isolating a specific quantum of supporting evidence.”  
 22 *Garrison v. Colvin*, 759 F.3d 995, 1009 (9th Cir. 2014) (quoting *Lingenfelter*, 504  
 23 F.3d at 1035). “‘Where evidence is susceptible to more than one rational  
 24 interpretation,’ the ALJ’s decision should be upheld.” *Orn v. Astrue*, 495 F.3d 625,  
 25 630 (9th Cir. 2007) (quoting *Burch v. Barnhart*, 400 F.3d 676, 679 (9th Cir. 2005)).  
 26 “If the evidence can support either affirming or reversing the ALJ’s conclusion, [a  
 27 court] may not substitute [its] judgment for that of the ALJ.” *Robbins*, 466 F.3d at  
 28 882.

1           **IV. DISCUSSION**

2           **A. Disputed Issue**

3           The single disputed issue is whether the ALJ improperly rejected Plaintiff's  
 4 testimony regarding pain and functional limitations. (ECF No. 22, at 2.) Plaintiff  
 5 argues that the ALJ improperly rejected her subjective symptom testimony by  
 6 failing to offer any specific, clear and convincing reasons supported by substantial  
 7 evidence in the record. (*Id.* at 3.) Defendant asserts that the ALJ's reasoning in  
 8 discounting Plaintiff' subjective symptom testimony was consistent with a  
 9 reasonable interpretation of the record and controlling legal authority. (*Id.* at 11.)

10           **B. Applicable Law**

11           When assessing a claimant's credibility regarding subjective pain or intensity  
 12 of symptoms, the ALJ must engage in a two-step analysis. *Trevizo v. Berryhill*, 871  
 13 F.3d 664, 678 (9th Cir. 2017). "First, the ALJ must determine whether the claimant  
 14 has presented objective medical evidence of an underlying impairment 'which  
 15 could reasonably be expected to produce the pain or other symptoms alleged.'" *Garrison*, 759 F.3d at 1014 (quoting *Lingenfelter*, 504 F.3d at 1035–36). "In this  
 16 analysis, the claimant is *not* required to show 'that her impairment could reasonably  
 17 be expected to cause the severity of the symptom she has alleged; she need only  
 18 show that it could reasonably have caused some degree of the symptom.'" *Id.*  
 19 (quoting *Smolen v. Chater*, 80 F.3d 1273, 1282 (9th Cir. 1996)). "Nor must a  
 20 claimant produce 'objective medical evidence of the pain or fatigue itself, or the  
 21 severity thereof.'" *Id.* (quoting *Smolen*, 80 F.3d at 1282).

22           If the claimant satisfies this first step, and there is no evidence of malingering,  
 23 the ALJ must provide specific, clear and convincing reasons for rejecting the  
 24 claimant's testimony about the symptom severity. *Id.* at 1014–15; *see also Robbins*,  
 25 466 F.3d at 883 ("[U]nless an ALJ makes a finding of malingering based on  
 26 affirmative evidence thereof, he or she may only find an applicant not credible by

1 making specific findings as to credibility and stating clear and convincing reasons  
 2 for each.”). “This is not an easy requirement to meet: ‘The clear and convincing  
 3 standard is the most demanding required in Social Security cases.’” *Garrison*, 759  
 4 F.3d at 1015 (quoting *Moore v. Comm’r of SSA*, 278 F.3d 920, 924 (9th Cir. 2002)).  
 5 The ALJ must evaluate “the intensity and persistence of those symptoms to  
 6 determine the extent to which the symptoms limit [the claimant’s] ability to perform  
 7 work-related activities for an adult . . . .” Social Security Ruling 16-3p, 2016 SSR  
 8 LEXIS 4, at \*4 (Mar. 16, 2016).

9       While the ALJ cannot “delve into wide-ranging scrutiny of the claimant’s  
 10 character and apparent truthfulness,” *Trevizo*, 871 F.3d at 678 n.5, the ALJ may  
 11 consider “prior inconsistent statements concerning the symptoms, and other  
 12 testimony by the claimant that appears less than candid; . . . unexplained or  
 13 inadequately explained failure to seek treatment or to follow a prescribed course of  
 14 treatment; and . . . the claimant’s daily activities,” *Ghanim v. Colvin*, 763 F.3d  
 15 1154, 1163 (9th Cir. 2014) (quoting *Smolen*, 80 F.3d at 1284). Inconsistencies  
 16 between a claimant’s testimony and conduct, or internal contradictions in the  
 17 claimant’s testimony, also may be relevant. *Burrell v. Colvin*, 775 F.3d 1133, 1137  
 18 (9th Cir. 2014). In addition, the ALJ may consider “the claimant’s work record and  
 19 observations of treating and examining physicians and other third parties regarding,  
 20 among other matters, the nature, onset, duration, and frequency of the claimant’s  
 21 symptom; precipitating and aggravating factors; [and] functional restrictions caused  
 22 by the symptoms . . . .” *Smolen*, 80 F.3d at 1284. However, it is improper for an  
 23 ALJ to reject subjective testimony based “solely on a lack of objective medical  
 24 evidence to fully corroborate’ the claimant’s allegations.” *Bray v. Comm’r of SSA*,  
 25 554 F.3d 1219, 1227 (9th Cir. 2009) (quoting *Bunnell v. Sullivan*, 947 F.2d 341,  
 26 345 (9th Cir. 1991)).

27       The ALJ must make “a credibility determination with findings that are  
 28 sufficiently specific to permit the court to conclude that the ALJ did not arbitrarily

1 discredit claimant's testimony." *Tommasetti v. Astrue*, 533 F.3d 1035, 1039 (9th  
 2 Cir. 2008) (quoting *Thomas v. Barnhart*, 278 F.3d 947, 958 (9th Cir. 2002)); *see*  
 3 *Brown-Hunter v. Colvin*, 806 F.3d 487, 493 (9th Cir. 2015) ("A finding that a  
 4 claimant's testimony is not credible 'must be sufficiently specific to allow a  
 5 reviewing court to conclude the adjudicator rejected the claimant's testimony on  
 6 permissible grounds and did not arbitrarily discredit a claimant's testimony  
 7 regarding pain.'" (quoting *Bunnell*, 947 F.2d at 345–46)). Although an ALJ's  
 8 interpretation of a claimant's testimony may not be the only reasonable one, if it is  
 9 supported by substantial evidence, "it is not [the court's] role to second-guess it."  
 10 *Rollins v. Massanari*, 261 F.3d 853, 857 (9th Cir. 2001).

11

12 **C. Plaintiff's Statements**

13       1. Adult Function Report

14       On February 8, 2021, Plaintiff completed an Adult Function Report, in which  
 15 she described her problems and limitations as follows:

16       She has degenerative arthritis in her lower back, hips, and knees, and lupus.  
 17 (AR 323.) She cannot be exposed to the sun and is sensitive to chemicals. (*Id.*)  
 18 Her immune system is suppressed due to her autoimmune disease. (*Id.*) She is  
 19 physically limited either due to her lupus or arthritis and anemia, or her depression  
 20 and anxiety interferes mentally. (AR 328.)

21       Her illness, injuries, or condition affect her ability to lift, squat, bend, stand,  
 22 walk, kneel, climb stairs, see, and concentrate, and her memory. (*Id.*) Her physical  
 23 problems limit her ability to stand or walk. (AR 323.) It is hard for her to bend  
 24 down, so getting dressed is difficult. (AR 324.) It is difficult for her to get in and  
 25 out of the tub to bathe. (*Id.*) She cannot shave her legs and struggles to use the  
 26 toilet. (*Id.*) She can no longer walk her dog (AR 323); her son walks her dog and  
 27 feeds him (AR 324). She can barely walk to the garage before needing to stop and  
 28 rest. (AR 328.)

1       She does not do household chores—for example, cleaning, laundry, household  
 2 repairs, ironing, mowing, etc.—except she folds laundry, which “takes no time at  
 3 all.” (AR 325.) She does not do house or yard work because she is in extreme pain  
 4 when standing or walking. (*Id.*) She tries to cook dinner for her family three times a  
 5 week, and can do so sitting down with help from her kids; this takes one hour to an  
 6 hour and a half. (AR 324–25.) She can no longer cook standing up. (AR 323.)

7       She only goes outside when absolutely necessary—i.e., for doctors or to go  
 8 grocery shopping. (AR 326.) Her anxiety and fears keep her inside. (*Id.*) She  
 9 never goes out alone, and when she goes out, she rides in a car and does not drive.  
 10 (*Id.*) She goes grocery shopping once a month, and goes to Food 4 Less or Walmart  
 11 at least once a month. (AR 326–27.) Last month her doctor prescribed a  
 12 wheelchair, which she uses when leaving the house, including to go grocery  
 13 shopping. (AR 324, 329.)

14       She spends a lot of her day in bed watching television with her mom and  
 15 family. (AR 324.) It takes her four hours to watch a ninety-minute movie. (AR  
 16 328.) She enjoys watching cooking channels and YouTube with her brothers, and  
 17 does this daily. (AR 327.) She also emails with others, and Zooms with her  
 18 therapist every week. (AR 327, 330.) Since the illness, she no longer does social  
 19 activities, such as river days, long walks, dancing, or barbeques. (AR 327.)

20       She is afraid of men, crowds, and sleeping. (AR 329.) She gets anxious in  
 21 crowds and panics. (AR 328.) She has severe night terrors and cannot sleep  
 22 without medication. (AR 324.) Her sons have to remind her to take her  
 23 medication; if she forgets, she cannot sleep and her nightmares return. (AR 325.)

24       She can follow directions but has trouble with measurements. (AR 328.) She  
 25 is okay following spoken instructions and gets along with authority figures. (*Id.*)  
 26 She has never been fired or laid off from a job because of problems getting along  
 27 with people. (*Id.*) When stressed, she shuts down. (AR 329.) She accepts changes  
 28 in routine. (*Id.*)

1                   2.     Hearing Testimony

2                   During the November 4, 2021 hearing before the ALJ, Plaintiff testified about  
3 her problems and limitations as follows:

4                   She last worked as a drug and alcohol abuse counselor until 2009 (AR 41).  
5 She had that job for six to eight years (*id.*) but stopped working due an emotional,  
6 mental breakdown (AR 46). She also has been unable to work since March 2020  
7 because she has lupus and rheumatoid arthritis. (*Id.*)

8                   She spends most of the day in bed. (*Id.*) It is a chore getting in and out of  
9 bed. (AR 46–47.) She needs help to get up and when she is sitting down she needs  
10 assistance with pretty much everything. (AR 47.) Her kids take care of her most of  
11 the time, and her mother helps her make the bed. (*Id.*) She does not often do those  
12 things for which she is embarrassed to ask for help. (*Id.*) She is restricted from  
13 being outside in the sun, is in a lot of pain, can barely stand for long durations,  
14 cannot walk the dog, has difficulty sleeping, and has to sit down to cook dinner.  
15 (AR 46.) Taking a shower is very tedious, and by the time she is exiting the  
16 bathroom she is in so much pain she is hyperventilating. (AR 47.) She tends to  
17 shower maybe once or twice a week and tends to stay in the same pajamas for days.  
18 (*Id.*) Bending over to put on socks is very painful. (*Id.*)

19                   She only leaves the house for medical appointments or when she is forced to  
20 go grocery shopping. (AR 47.) Sometimes she will have three doctors  
21 appointments in one week. (*Id.*)

22                   She cannot drive. (AR 47.) Driving is difficult because she gets lost and her  
23 hands get really heavy. (*Id.*) The muscles in her body seem to work against her, so  
24 holding the steering wheel would cause her to have constricting pain. (AR 47–48.)  
25 She gets lost a lot because she does not have a memory. (AR 48.) She has  
26 difficulties paying attention and concentrating. (*Id.*) The last time she drove, she  
27 remembers stopping at the light to make a left-hand turn, and her son was  
28 screaming because she was about to go into traffic and she had “hazed out” and did

1 not even remember being in the car. (*Id.*) She gets around by medical taxi, and her  
2 son goes with her so he can push her wheelchair. (*Id.*)

3 She uses a wheelchair provided by MediCal. (AR 50.) All of her doctors are  
4 aware of the wheelchair, but her primary doctor (Dr. Preshwani, who works with  
5 Dr. Chan) prescribed it. (*Id.*) If she has to travel from the parking lot to the  
6 appointment, she will use the wheelchair. (AR 51.) She uses it for every  
7 appointment other than Dr. Preshwani's because the parking lot is right in front of  
8 the door. (AR 50.) She has to use a wheelchair for the grocery store, or else she  
9 will use the wheelchair in the store. (*Id.*)

10 At home, she can walk short distances. (AR 52.) She cannot stand too long  
11 due to pain or fatigue, but can make it from her room to the living room. (*Id.*)  
12

#### 13 **D. Analysis**

14 At the first step of the two-step evaluation, the ALJ found that Plaintiff's  
15 "medically determinable impairments could reasonably be expected to cause the  
16 alleged symptoms[.]" (AR 23.) At the second step, however, the ALJ found that  
17 Plaintiff's "statements concerning the intensity, persistence and limiting effects of  
18 these symptoms are not entirely consistent with the medical evidence and other  
19 evidence in the record for the reasons explained in this decision." (AR 24.)

20 The parties disagree as to the reasons the ALJ gave for his negative  
21 assessment of Plaintiff's testimony. Plaintiff contends that the ALJ dismissed  
22 Plaintiff's subjective symptom testimony solely due to lack of objective medical  
23 evidence. (ECF No. 22, at 6.) Defendant counters that: "the ALJ found that the  
24 objective medical evidence did not corroborate Plaintiff's claims of disabling  
25 symptoms and functional limitations"; "the ALJ reasonably found Plaintiff's  
26 statement that she required a wheelchair was inconsistent with the lack of  
27 prescription for a wheelchair"; and "the ALJ explained that Plaintiff's treatment  
28 ///

1 history was inconsistent with her complaints of disabling symptoms and physical  
 2 limitations.” (*Id.* at 8–11.)

3 The Court may review only those reasons that the ALJ specifically cited as  
 4 grounds to reject Plaintiff’s subjective symptom testimony. *See Connett v.*  
 5 *Barnhart*, 340 F.3d 871, 874 (9th Cir. 2003) (“We are constrained to review the  
 6 reasons the ALJ asserts.”); *Garrison*, 759 F.3d at 1010 (“We review only the  
 7 reasons provided by the ALJ in the disability determination and may not affirm the  
 8 ALJ on a ground upon which he did not rely.”). Here, the only discernible reason  
 9 that the ALJ gave for discounting Plaintiff’s testimony was based on the lack of  
 10 objective medical evidence. (AR 21–27.) This includes Defendant’s purported  
 11 second reason: the ALJ’s finding that “[a]lthough the claimant alleged she required  
 12 the use of a wheelchair when she left her home, the claimant’s record does not  
 13 support a finding that the use of a wheelchair is medically necessary.” (AR 22.)

14 Even if the objective medical evidence supported these findings, they would  
 15 not be sufficient by themselves to discount Plaintiff’s testimony. *See Bunnell*, 947  
 16 F.2d at 345 (“[O]nce the claimant produces objective medical evidence of an  
 17 underlying impairment, an adjudicator may not reject a claimant’s subjective  
 18 complaints based solely on a lack of objective medical evidence to fully corroborate  
 19 the alleged severity of pain.” (citing *Cotton v. Bowen*, 799 F.2d 1403, 1407 (9th  
 20 Cir. 1986)); *Robbins*, 466 F.3d at 883 (“While an ALJ may find testimony not  
 21 credible in part or in whole, he or she may not disregard it solely because it is not  
 22 substantiated affirmatively by objective medical evidence.”); *Light v. SSA*, 119 F.3d  
 23 789, 792 (9th Cir. 1997) (“[A] finding that the claimant lacks credibility cannot be  
 24 premised wholly on a lack of medical support for the severity of his pain.”).

25 Defendant argues that the ALJ stated another reason to discount Plaintiff’s  
 26 testimony: “the ALJ explained that Plaintiff’s treatment history was inconsistent  
 27 with her complaints of disabling symptoms and physical limitations” because “[t]he  
 28 ALJ noted that Plaintiff was not compliant with her medication regimen.” (ECF

1 No. 22, at 11.) But the ALJ did not clearly link any such observation to Plaintiff's  
 2 testimony. It is well-settled that a reviewing court may not construe an ALJ's  
 3 general findings from the medical record as reasons to reject a claimant's subjective  
 4 symptom testimony if the ALJ does not explicitly tie such findings to the testimony.  
 5 *See Burrell*, 775 F.3d at 1139 ("Although the ALJ made findings . . . concerning  
 6 Claimant's treatment for headaches, he never stated that he rested his adverse  
 7 credibility determination on those findings."); *Treichler*, 775 F.3d at 1102 ("We  
 8 require the ALJ to specifically identify the testimony [from a claimant] she or he  
 9 finds not to be credible and . . . explain what evidence undermines the testimony.  
 10 That means [g]eneral findings are insufficient." (alterations in original) (citations  
 11 and quotation marks omitted)); *Brown-Hunter*, 806 F.3d at 494 ("[The ALJ] did not  
 12 link that testimony to the particular parts of the record supporting her non-  
 13 credibility determination."); *Potter v. Comm'r of Soc. Sec.*, 571 F. App'x 569, 572  
 14 (9th Cir. 2014) ("Problemsatically, the ALJ did not clearly tie [the claimant's]  
 15 failure to pursue the [treatment] to his credibility.").

16 In sum, the ALJ did not provide sufficient reasons to reject Plaintiff's  
 17 testimony. Thus, reversal is warranted.

18

19 **E. Remand for Further Proceedings**

20 The decision whether to remand for further proceedings or order an  
 21 immediate award of benefits is within the district court's discretion. *See Harman v.*  
 22 *Apfel*, 211 F.3d 1172, 1178 (9th Cir. 2000). Where no useful purpose would be  
 23 served by further administrative proceedings, or where the record has been fully  
 24 developed, it is appropriate to exercise this discretion to direct an immediate award  
 25 of benefits. *See id.* at 1179 ("[T]he decision of whether to remand for further  
 26 proceedings turns upon the likely utility of such proceedings."). However, where,  
 27 as here, the circumstances of the case suggest that further administrative review  
 28 could remedy the Commissioner's errors, remand is appropriate. *See McLeod v.*

1 *Astrue*, 640 F.3d 881, 888 (9th Cir. 2011). Specifically, remand is warranted here  
2 for reconsideration of Plaintiff's symptom statements because the ALJ's failure to  
3 provide any clear explanation for discounting such statements in the decision  
4 prevents this Court from meaningfully determining whether the decision is  
5 supported by substantial evidence. *See Treichler*, 775 F.3d at 1103 ("Because 'the  
6 agency's path' cannot 'reasonably be discerned,' we must reverse the district  
7 court's decision to the extent it affirmed the ALJ's credibility determination."  
8 (citation omitted)).

9

10 **V. ORDER**

11 The Court **ORDERS** that judgment be entered reversing the decision of the  
12 Commissioner and remanding this matter for further administrative proceedings.

13 **IT IS SO ORDERED.**

14  
15 DATED: August 23, 2023

---



16 MARIA A. AUDERO  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28  
UNITED STATES MAGISTRATE JUDGE